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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/615,701	07/09/2003	Peter J. Winzer	Winzer 7	9741

46850 7590 11/13/2006

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EXAMINER

PASCAL, LESLIE C

ART UNIT PAPER NUMBER

2613

DATE MAILED: 11/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/615,701	WINZER, PETER J.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Leslie Pascal	2613	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 October 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 14-22 is/are allowed.
- 6) ☒ Claim(s) 1-3 and 6-13 is/are rejected.
- 7) ☒ Claim(s) 4 and 5 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some    \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

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1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 6 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Allen et al (reference AC on form 1449).

See figure 6-3-1 of Allen (page 62). Allen et al teach an optical device (telescope), receiver (coherent receiver) which receives an incoming optical signal (into to receive telescope) and coupled to a light generator (laser), a transmitter (laser AOM and MZM) which has a light generator (laser).

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 7-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Allen et al (reference AC on form 1449).

Although Allen does not specifically call his laser an optical local oscillator, it appears that this is how the system operates. It is well known to use such an oscillator to homodyne or heterodyne in order to convert the signal to the appropriate wavelength. In regard to his phase diverse receiver, see the last paragraph of page 72. He teaches that the phase variations are eliminated, it would appear that if the phase variations

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are eliminated, that the receiver is not affected by the variations and would be phase diverse. With regard to claim 10, he appears to have two optical inputs. Although he shows only an electrical output (figure 5-2-1), it would appear that in order to couple two optical signals and output an electrical signal, it would have been obvious, if not inherent, that there is an optical output that is converted to electrical (as claimed in claim 11).

5. Claims 1, 6-8, 10-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Veith (51212410).

Veith teaches an optical device (20), an optical receiver (13) which receives an input signal (from line 12) and a signal from a generator (26), a transmitter (16). In regard to claim 10, see element 19. In regard to claim 11, the receiver appears to read on this. In that he teaches that the laser 26 is frequency convertible, it would appear that it is tunable with regard to claims 13-14.

6. Claims 2-3 are rejected under 35 U.S.C. 103(a) as being obvious over Hansen (6078418) in view of Veith (51212410).

Hansen et al teach that it is well known to use homodyning in a WDM add/drop means in order to provide a simple to detector with beat frequencies. It would have been obvious to use the homodyne detector of Veith in the system of Hansen in order to provide such detection in an add/drop multiplexer. Although Veith does not specifically teach that his incoming signal is a WDM signal, in that the source is tunable, it would have been obvious to tune it with regard to an WDM signal that was input.

7. Claims 14-11 are allowed.

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8. Claims 4-5 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leslie Pascal whose telephone number is 571-272-3032. The examiner can normally be reached on Monday- Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Chan can be reached on 571-272-3022. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Leslie Pascal  
Primary Examiner  
Art Unit 2613